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EXAMINER

DANIELS, ANTHONY J

ART UNIT PAPER NUMBER

2615

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/993,023	Applicant(s) MOORES ET AL.	
	Examiner Anthony J. Daniels	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

59,61,63. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "59" and "61" have both been used to designate the step of routing pictures to the database and placed in appropriate files associated with unique tag id. In Figure 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not

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accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: Please fill in the missing application number in paragraph 0043.

Appropriate correction is required.

Claim Objections

5. Claim 36 is objected to because of the following informalities: "them" should be respelled "theme". Appropriate correction is required.

6. Claims 7 and 26 are objected to because of the following informalities: "a" on line 2 should be omitted. Claims 7 and 26 contain "etc." language. This is not permissible in the claims. Appropriate correction is required.

7. Claim 34 is objected to because of the following informalities: Claim 34 is dependent upon claim 1, which is a method claim not an apparatus claim. If applicant wishes to have claim 34 depend upon claim 1, claim 34 must be a method claim. A rejection is being made under the assumption that the apparatus claim 34 is dependent upon the apparatus claim 20 as its analogous method claim 15, which is dependent upon claim 1, would imply.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. *The dependent claim 4 fails to state the claim it is dependent upon. Another rejection is being made, under 102(b), with the assumption that claim 4 is dependent upon the independent claim 1 as its analogous apparatus claim 23 would imply.*

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 1-6,9,10,15-19,20-25,28,29,34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. (US # 5,694,514).

Claims 20-25,28,29,34-38 will be discussed first and claim 36 before claim 35.

As to claim **20**, Evans et al. teaches an apparatus comprising: an image capture device located at a venue of interest and arranged to capture a plurality of images (see Col. 2, Lines 32-34), each image including therein a likeness of a respective one of a plurality of individuals (see Col. 2, Lines 29-32); means for generating a plurality of identifiers, each identifier uniquely associating one of said individuals with each image which includes that individual's likeness (see Col. 2, Lines 29-32), and means for storing said images in a database (see Figure 5; Col. 2, Lines 46-49). The claim differs from Evans et al. in that it further requires the images to be stored in such a manner that each image may be accessed through use of its corresponding identifier, but Evans et al. teaches the ability to access the images by a tape number (see Col. 6, Lines 24-28). In Figure 5, images are stored in accordance with the guest id, guest's name and addresses; therefore, having guest access through a name or address would provide unforgettable password through which images can be retrieved and is easier to remember than an ID.

As to claim **21**, Evans et al. teaches an apparatus of claim 20 wherein each of said identifiers is also stored in said database (see Figure 5, identifier "503").

As to claim **22**, Evans et al. teaches an apparatus of claim 20 wherein said identifiers are stored in said database in a manner, which associates each said identifier with the image which includes the likeness of the individual corresponding to that identifier (see Figure 5, see Col. 2, Lines 46-49).

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As to claim **23**, Evans et al. teaches an apparatus of claim 20 further including: means for automatically recognizing a selected identifier at the venue (see Col. 5, Lines 5-11) and means for automatically responding to the automatic recognition of a selected identifier to trigger said image capture device to capture an image, said image including a likeness of the individual associated with that selected identifier (see Figure 3, record image/video "315"; Col. 5, Lines 12-15).

As to claim **24**, Evans et al. teaches an apparatus of claim 23 wherein said means for automatically responding is further responsive to a second control signal to control automatic triggering of said image capture device (see Col. 5, Lines 23-25).

As to claim **25**, Evans et al. teaches an apparatus of claim 23 wherein each of said plurality of identifiers resides on a respective RFID tag carried by a respective individual (Col. 3, Lines 8-10, see Col. 5, Lines 5,6) and said automatic recognition comprises automatically reading a particular RFID tag (see Col. 5, Lines 5-11).

As to claim **28**, Evans et al. teaches an apparatus of claim 20 further including means for transmitting said images via wireless transmission for storage in said database (see Col. 2, Lines 46-49; Col. 7, Lines 18-21).

As to claim **29**, Evans et al. apparatus of claim 21 further including means for transmitting said images and said identifiers by wireless transmission for storage by said database (see Col. 2, Lines 46-49,67, Col. 3, Lines 1,2).

As to claim **34**, Evans et al. teaches an apparatus of claim 1 wherein a first identifier is recognized and one or more images captured corresponding to said first identifier (see Col. 5, Lines 5-15), and wherein, a second identifier is then recognized and one or more images captured corresponding to that second identifier *{The second*

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identifier is of the second person who has his/her images taken who happens to be next in line at the amusement park ride.}

As to claim **35**, Evans et al. teaches an apparatus of claim 20 wherein the venue comprises a ski area. It is inherent that if the system works in an amusement park, then it will work in a ski area.

As to claim **36**, Evans et al. teaches an apparatus of claim 20 wherein the venue comprises a theme park (see Abstract, Line 1,2).

As to claim **37**, Evans et al. teaches an apparatus of claim 20 wherein the venue comprises a cruise ship. It is inherent that if the system works in an amusement park, then it will work on a cruise ship.

As to claim **38**, Evans et al. teaches an apparatus of claim 20 wherein the venue comprises a scenic attraction. It is inherent that if the system works in an amusement park, then it will work in a scenic attraction.

As to claims **1-6,9,10,15-19**, claims 1-6,9,10,15-19 are method claims corresponding to the apparatus claims 20-25,28,29,34-38, respectively. Therefore claims 1-6,9,10,15-19 are analyzed and rejected as previously discussed with respect to the apparatus claims 20-25,28,29,34-38, respectively.

10. Claims 7,8,26,27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. (see Patent Number above) in view of Berson et al. (US # 5,469,506).

Claims 26,27 will be discussed first.

As to claim **26**, Evans et al. teaches the apparatus of claim 24 and a second control signal (see Col. 5, Lines 23-25). The claim differs from Evans et al. in that it

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further requires the second control signal to be generated by an infrared motion detector, or a biometric detector.

In the same field of endeavor, Berson et al. teaches apparatus that generates a signal corresponding to a person's biometric characteristic (see Abstract, Lines 15-18). In light of the teaching of Berson et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Evans et al. by including an auxiliary apparatus that generates a signal due for biometric detection. Such an auxiliary apparatus would allow the system to still be active if the radio frequency recognition system went down or needed repair, and it also would not be susceptible to electromagnetic interference caused by radio station broadcasts, contrary to the radio frequency recognition system.

As to claim 27, Evans et al., as modified by Berson et al., teaches the apparatus of claim 23 wherein said identifiers (see Evans et al., Figure 5, guest identifier "503") comprises a biometric feature (see Berson et al., thumbprint in Line 12 of Abstract) and said automatic recognition includes the step of automatically recognizing a feature (see Evans et al., Col. 5, Lines 5-8).

As to claims 7,8, claims 7,8 are method claims corresponding to the apparatus claims 26,27, respectively. Therefore claims 7,8 are analyzed and rejected as previously discussed with respect to claims 26,27, respectively.

11. Claims 11-14,30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. (see Patent Number above) in view of Jenkins et al. (6,597,392).

Claim 30-33 will be discussed first.

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As to claim **30**, Evans et al. teaches the apparatus of claim 20 further including the means for making one of said images available at a site (see Col. 7, Lines 15-18) in response to the provision at the site of the identifier corresponding to that image (see 103 (a) rejection of claim 1). The claim differs from Evans et al. in that it requires that the images be available for viewing at the location.

In the same field of endeavor, Jenkins et al. teaches transferring images from a camera to a computer with display (see Figure 1, Abstract, Lines 5-7). In light of the teaching of Jenkins et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Evans et al. by including the ability to transfer the images from the capture device of Evans et al. via the wireless communications network of Evans et al. to the central site of Evans et al. where the images could be viewed before reproduction on the videotape. Such a modification would provide the ability to edit the images if need be.

As to claim **31**, Evans et al., as modified by Jenkins et al., teaches the apparatus of claim 30 wherein one of said images is made available by downloading it from said database (see Evans et al, Col. 7, Lines 15-18) to apparatus (see Jenkins et al., computer in Figure 1) located at a viewing location.

As to claim **32**, Evans et al., as modified by Jenkins et al., teaches the apparatus of claim 31 wherein said apparatus comprises a computer display on which said image could be viewed after it is downloaded (see Jenkins et al., computer display "108" in Figure 1).

As to claim **33**, Evans et al. teaches an apparatus of claim 30 further including means for reproducing said image or a portion thereof at said viewing location (see Col.

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6, Lines 30-32, *{If a video tape is supplied to the guest, then inherently, there has to be an apparatus that reproduces the images stored on the video tape.}*).

As to claims **11-14**, claims 11-14 are method claims corresponding to the apparatus claims 30-33, respectively. Therefore, claims 11-14 are analyzed and rejected as previously discussed with respect to claims 30-33, respectively.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Daniels whose telephone number is (703) 305-4807. The examiner can normally be reached on 8:00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andy Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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12/15/2004


NGOC YEN VU
PRIMARY EXAMINER